

# Notice of Allowability

Application No.

09/845,669

Examiner

Jocelyn Greimel

Applicant(s)

CLARK ET AL.

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Information Disclosure Statement of 6/19/07.
2. ☒ The allowed claim(s) is/are 35,36,38-51,53-69 and 71-92.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 6/19/07
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

This communication is in response to Applicant's Response to Rule 105 Communication and Information Disclosure Statement filed 19 June 2007.

### ***Status of Claims***

Claims 35-36, 38-51, 53-69 and 71-92 are currently pending. Claims 1-34, 37, 52 and 70 have been canceled. Claims 35, 50, 68 and 88 are independent claims.

### ***Information Disclosure Statement***

The Information Disclosure Statement filed 19 June 2007 has been considered.

### ***Allowable Subject Matter***

Claims 35-36, 38-51, 53-69 and 71-92 are allowed.

### ***Reasons for Allowance***

1. The closest prior art that the Examiner has been able to locate is Payne et al (US Patent No. 6,049,772) in view of Schirripa (US Patent No. 6,636,834) and further in view of Mody.

2. Payne is a system for managing hedged investments for life insurance companies. Payne discloses a system for index-linked life insurance policies. Schirripa is an annuity system which discloses that companies must have adequate financial reserves to make the contracted annuity payments. Mody discusses how loan guarantees have a cost associated with them. While there are similarities between the combination of Payne, Schirripa and Mody and the proposed invention, there are clear patentable distinctions. Specifically, Payne discusses index-lined life insurance policies. However, Payne does not discuss the need to determine or estimate the cost of providing the annual guaranteed payments at the institution of the policy when determining the amount allocated the hedged investment budget and using funds from a risk fund to meet the annual payment if needed. Payne accounts for the cost of annual guaranteed payments by adjusting the participation rates in subsequent terms that are issued. The proposed claimed invention estimates the cost of the annual guarantee when determining the hedged investment budget. Additionally, although Schirripa does teach the need to have adequate financial reserves for payments, the method is drawn to an annuity program and not a life insurance program which are structurally different. Secondly, Schirripa does not show using funds from a reserve or risk fund to meet the guaranteed payments. Also, Mody shows loan guarantees have a cost associated with them but does not disclose utilizing a risk fund to meet this payments. Additionally, the

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Examiner would like to reference Roscoe (US Patent Pub. No. 2002/0040307). Roscoe teaches a method and system for determining a life insurance policy value by tracking and reconciling a policy's value. The system tracks and reconciled as the policy transpires. Roscoe does mention the need cover the future costs to the insurance company in providing the income stream to the policyholder. Roscoe also discusses fixed fees or obligations that reduce the premium. However, Roscoe does not disclose a pro-active estimation of the cost of the guarantee at initiation of the policy and allocating this to a risk fund to cover the annual guarantee payments if needed.

3. Finally, the Examiner would like to note that there is no motivation in Payne, Schirripa and/or Mody to apply estimating the cost of an annual guarantee when initiating a life insurance policy and determining the initial hedged investment budget and allocating a risk fund to cover the annual guarantee payments. While the references disclose some elements of the proposed claimed invention, the modifications to Payne, Schirripa and Mody that would be required to achieve Applicant's method and system, assuming such missing elements could be located in the prior art, could only be motivated by facts and suggestions deduced from impermissibly referring to Applicant's disclosure in hindsight.

4. **The following is a formal statement of the Examiner's reasons for allowance:**

Claims 35, 50, 68 and 88 are allowed because the best prior art of record, Payne, alone or in combination with Schirripa and/or Mody, neither discloses nor fairly suggests the limitations, in a method, system and apparatus for implementing an index-linked life insurance product, comprising:

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determining an investment budget by projecting a fixed income yield to be produced by investing a net premium payment in a fixed income investment;

creating a segment of the index-linked life insurance product having a term, wherein the term is comprised of a plurality of term periods, wherein the term has a term length greater than one year;

determining a hedged investment budget based at least in part on deducting from the investment budget an estimated cost of an annual guarantee over the term associated with the index-linked life insurance product, wherein at least a portion of the estimated cost of the annual guarantee is allocated to a risk fund;

allocating the hedged investment budget to a hedged investment designed to generate proceeds for supporting index-linked earnings to be credited to the index-linked life insurance product;

determining an initial index value;

at the end of each term period for the duration of the term,

determining an index value for the ended term period,

determining a current segment value by crediting to the segment an amount based on the index-linked earnings comprising a percentage difference between the index value for the ended term period and the initial index value, and

realizing any proceeds generated by the hedged investment;

determining the occurrence of a predetermined event where the amount credited based on the index-linked earnings is not equal to at least the annual guarantee compounded over the term; and

upon the occurrence of a predetermined event where the amount credited to the segment based on the index-linked earnings does not equal to at least the annual guarantee compounded over the term, using funds from the risk fund to increase the amount credited to the segment to be substantially equal to the annual guarantee compounded over the term,

Claims 36, 38-49, 51, 53-67, 69, 71-87 and 89-92 are also allowed for the same reasons discussed supra, in that they are dependent on allowed claims 35, 50, 68 and 88.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

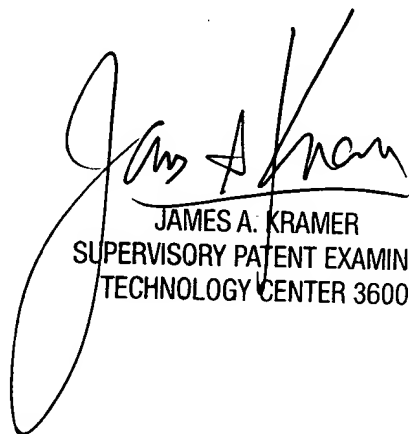
***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel  
Examiner, Art Unit 3693  
January 14, 2008

 1/22/08  
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